

APPEAL NO. 010858  
FILED JUNE 5, 2001

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 3, 2001. The hearing officer held that the appellant (claimant) did not sustain an injury in the course and scope of her employment with (employer).

The claimant has appealed and argues that she proved her injury. The respondent (carrier) responds that the decision is supported by the record.

DECISION

We affirm the hearing officer's decision.

The hearing officer did not err by finding that the claimant's testimony and evidence was insufficient to establish that she injured herself lifting boxes on \_\_\_\_\_. The hearing officer has fairly summarized the evidence, and the claimant forthrightly admitted she told no one of her injury until her last day of employment on April 1, 1999, which occurred because of a reduction in force by her employer and the fact that she declined to accept the only available job on the midnight shift which was offered to her. The burden is on the claimant to prove that an injury occurred within the course and scope of employment. Service Lloyds Insurance Co. v. Martin, 855 S.W.2d 816 (Tex. App.-Dallas 1993, no writ); Texas Employers Insurance Association v. Page, 553 S.W.2d 98 (Tex. 1977).

The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing. Section 410.165(a). The decision should not be set aside because different inferences and conclusions may be drawn upon review, even when the record contains evidence that would lend itself to different inferences. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). In considering all the evidence in the record, we cannot agree that the findings of the hearing officer are so against the

great weight and preponderance of the evidence as to be manifestly wrong and unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We therefore affirm the decision and order.

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Susan M. Kelley  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Gary L. Kilgore  
Appeals Judge